COURT OF APPEALS
DECISION
DATED AND FILED

September 26, 2002

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 01-3149 **Cir. Ct. No. 92-FA-1777**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

IN RE THE FINDING OF CONTEMPT IN MARY L. SCHOMMER V. MICHAEL W. SCHOMMER:

MARY L. SCHOMMER N/K/A MARY L. GARCIA,

PETITIONER-RESPONDENT,

V.

MICHAEL W. SCHOMMER,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Dane County: DAVID T. FLANAGAN, Judge. *Affirmed.*

¶1 DEININGER, J.[1] Michael Schommer appeals an order finding him in contempt for failure to pay an arrearage in his child support obligation. Schommer claims the trial court erred in finding him in contempt because his former wife, Mary Garcia, received supplement security income (SSI) benefits for the parties' disabled child, and therefore he should not be ordered "to pay again for something that has already been paid." We conclude, however, that his attempt to challenge his support obligation in the present appeal comes too late. Accordingly, we affirm the order finding him in contempt for failure to comply with the support orders.

BACKGROUND

¶2 The parties were divorced in 1995. Primary physical placement of their minor son, Garrett, who was severely developmentally disabled, was awarded to Mary. The divorce judgment ordered Schommer to pay $255 per month for child support, but in lieu of the first forty-six months of payments, Schommer's interest in the homestead real estate was awarded to Mary. Under the terms of the judgment, Schommer's obligation to pay support for Garrett commenced again on December 1, 1998, to be calculated at 17% of his income at that time, continuing until Garrett attained the age of twenty-one years.

¶3 In October 1999, the court entered an order which recited that "[t]he parties stipulate to the terms of [this] order" and established a support arrearage of

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(h) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

$2,804.82 as of October 21, 1999. The order directed Schommer to pay $255 per month in current support plus $20 per month against the arrearage.

¶4 Schommer moved in August 2000 for a decrease in the amount of child support. A court commissioner concluded "[t]here has been no substantial change in circumstances so as to justify a decrease in Mr. Schommer's support obligation." Schommer sought a hearing de novo before the circuit court, and the court affirmed the denial of Schommer's motion to decrease his support payments. Additionally, the court ordered Schommer to show cause before the court commissioner why he should not be held in contempt for his failure to pay current and past support. The court commissioner found Schommer to be in contempt, with the support arrearage now totaling some $6,475. The commissioner imposed a sixty-day commitment to the Dane County jail, with a purge condition that Schommer pay the ordered $275 per month commencing in March 2001.

¶5 Garrett died on March 29, 2001, and the Dane County Corporation Counsel moved the court to (1) terminate Schommer's support obligation as of Garrett's date of death, and (2) order that the entire $275 per month support payments be applied to the arrearage. A court commissioner subsequently found that the arrearage totaled $7,283.77 as of July 5, 2001, and ordered Schommer to pay $255 per month toward the arrearage commencing August 1, 2001, or to spend sixty days in jail as a contempt sanction. Schommer requested that the commissioner's order be heard de novo, and the circuit court did so on September 7, 2001.

¶6 In the order entered following the de novo proceeding, the court noted that this was the "third instance of a contempt order entered against [Schommer], all arising from [his] clear obligation to pay child support beginning

December 1, 1998 and his persistent failure to do so." The court found that Schommer "continues to be in violation of the child support obligation imposed by the judgment in this matter, and is therefore in contempt" of the court's previous orders. The court ordered as a remedial sanction that Schommer spend sixty days in the Dane County jail, with work release privileges. The court stayed the sanction upon the condition that Schommer purge the contempt by paying $255 per month beginning on October 1, 2001.

¶7 Schommer appeals the contempt order, and his former wife responds, both appearing pro se. No representative of any state or county child support enforcement agency has participated in the appeal.

ANALYSIS

¶8 Schommer does not argue that the circuit court erred in its factual findings, or that it erroneously exercised its discretion when imposing a contempt sanction and purge conditions. Rather, Schommer's sole argument is that he should be relieved of his obligation to pay the arrearage because his former wife received SSI payments for their son. He summarizes his position as follows: "How can there be an argument for me the Appellant to pay again for something that has already been paid."

¶9 Among other possible infirmities, Schommer's argument comes far too late. Schommer's obligation to pay child support for his son was established in the 1995 judgment of divorce. Schommer thereafter stipulated in 1999 to the amount of the support arrearage and to his obligation to pay $275 per month for current and past support. He appealed neither the 1995 judgment nor the 1999 order. If Schommer believed the circuit court had erred in the divorce judgment

by requiring him to pay support, or in the subsequent orders determining arrearages and ordering monthly payments, he should have appealed those orders.

¶10 We have been unable to discern any argument in Schommer's brief relevant to the contempt order of September 7, 2001. To the extent that he is attempting to argue anything other than that he should be relieved of child support obligations imposed by prior orders of the court, those arguments are not developed, do not reflect any legal reasoning, and are unsupported by citations to legal authority or facts in the record. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992). In order for us to address any potential challenges to the appealed order, we would first have to develop arguments on Schommer's behalf, which we cannot do because we cannot "serve as both advocate and judge." ***Id***. at 647.

¶11 Because Schommer makes no argument challenging the court's factual and discretionary determinations in the present contempt proceedings, Schommer has given this court no reason to disturb the appealed order.

CONCLUSION

¶12 For the reasons discussed above, we affirm the circuit court's contempt order of September 7, 2001.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.